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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Petition to Establish Policies
and Rules Pertaining to the
Equal Access Obligations of
Cellular Licensees

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RM-8012

REPLY COMMENTS OF GTE

GTE Service Corporation, on behalf of
its cellular affiliates, GTE Mobilnet
Incorporated and Contel Cellular, Inc.

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October 15, 1992

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SUMMARY

The record in this proceeding cannot support imposing additional obligations on cellular carriers. The record shows that the cellular market is highly competitive and responsive to customer choice. Cellular carriers compete on the basis of service, price and other factors. Competition in the cellular market is becoming even more intense with the increasing number of other wireless communications systems. Burdensome regulatory tampering can only hinder this competitive environment.

While the record shows that supporters of the Petition, primarily interexchange carriers would be the beneficiaries of cellular equal access, there is no showing that end user customers would similarly benefit. The current mechanism allows the customers to choose from cellular carriers on the basis of widely varied service options and there is no evidence that customers want equal access, suffer from its absence or would benefit from equal access. Cellular equal access will not appreciably improve the end users' ability to chose an IXC.

The record shows that the substantial costs and burdens to the cellular carriers to implement cellular equal access obligations. These costs must be balanced against the potential benefits. Such an analysis shows that these costs significantly outweigh the benefits of equal access.

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REPLY COMMENTS OF GTE

GTE Service Corporation, on behalf of its cellular affiliates GTE Mobilnet Incorporated and Contel Cellular, Inc., ("GTE") hereby submits Reply Comments in response to the Comments and Oppositions filed with regard to the above-referenced MCI Telecommunications Corporation ("MCI") Petition for Rulemaking ("Petition").

MCI has asked the Commission to establish a rulemaking to require cellular carriers to provide equal access to interexchange carriers ("IXCs"). Numerous comments were filed. Generally, the interexchange carriers supported such equal access rules and the non-RBOC-related cellular carriers opposed imposition of equal access requirements. The RBOC-related cellular carriers, while not supporters of equal access, urged that requirements be imposed on other cellular carriers to "level" the cellular playing field.

The Commission must evaluate the public interest in MCI's proposal.

Not unexpectedly, in the comments submitted in the first round of this proceeding, interexchange carriers generally supported MCI's Petition seeking the imposition of equal access requirements for all cellular carriers. It is apparent that the IXC's would be the beneficiaries of cellular equal access.¹ The IXC's perceive cellular equal access as a means of increasing their subscriber base at minimal cost to the IXC's.

Before imposing additional regulatory burdens, however, the Commission must establish that the public interest, which must include the interest of the end users and the cellular carriers, would benefit from the regulation. There is no showing that end user customers gains more choice under equal access. In fact, many of the comments provided by cellular providers suggest that the end user would not benefit from cellular equal access.

The comments of Comcast Cellular, a cellular carrier who provides cellular equal access in some of its systems (through a partnership with a Bell carrier), are particularly instructive. These comments suggest that only the largest IXC's benefit from cellular equal access. Comcast's experience has shown that "customers proved indifferent to the choice of IXC."² When forced to choose, "virtually all subscribers" chose one of the three dominant IXC's. Comcast states that only one other IXC even bothered to participate in the equal

¹ In fact, it has been suggested that equal access would enhance the market share of certain IXC's while shielding them "from direct competition with resellers of interexchange service." Comments of SNET at 2. See also Comments of Comcast Cellular Communications, Inc. at 7.

² See Comments of Comcast at 4. "[W]hile its customers desire quality interexchange services, they are not particularly interested in the identity of the interexchange services provider." Id. at 6.

access process. Alltel Mobile states that it has not experienced "any appreciable demand for equal access from their subscribers."³

Currently, cellular carriers not subject to the equal access requirements, including GTE, are able to offer their customers wide-area calling without the use of an IXC. Savings are passed on to the end users. The Comments of McCaw show that end users currently benefit from these flexible cellular regulatory policies. McCaw's examples illustrate how the end user would be disadvantaged by the MCI proposal.⁴

Noticeably absent from either MCI's Petition or the comments of those supporting MCI is any showing that the public has benefited from cellular equal access. Even the comments of the Bell Operating Companies, who have been providing equal access to their cellular subscribers, do not show that the end user has benefited from cellular equal access. In fact, Bell Atlantic states that eliminating the equal access obligations on the BOC-affiliated cellular carriers "would potentially save consumers millions of dollars every year."⁵ Before the Commission imposes equal access obligations on all cellular carriers, there should be some showing, on the record, based upon actual experience from carriers who already provide cellular equal access, that the public, and specifically the end users, have received some benefit from cellular equal access.

The commenters supporting the MCI Petition would have the Commission believe that without cellular equal access requirements, end users have no

³ See Comments of Alltel Mobile Communications, Inc. at 2.

⁴ Comments of McCaw Cellular Communications, Inc. at 13-15.

⁵ Comments of Bell Atlantic at 3.

choice of IXC.⁶ As explained in GTE's initial comments, this is not the case. Cellular customers have a choice of IXC. They can dial the access code of the carrier of choice or use the default carrier chosen by the cellular carrier.⁷ While the Commission had been concerned in the LEC equal access proceeding that customers should not be required to dial burdensome extra digits, this is not a significant concern with cellular. As SNET explained, "the proliferation of speed dialing and programmable equipment makes this alternative a realistic one for those who might wish to use it."⁸ GTE believes that the record shows that cellular customers already have a choice of IXCs and that cellular equal access will not appreciably improve the end users' ability to choose an IXC.

The Commission should not impose
additional regulatory burdens on the
competitive cellular market.

In light of the Commission's past experience with equal access in the monopoly local exchange market, the simple approach would be to assume that the similar equal access policies should be applied to the cellular market. However, as set forth in the comments in this proceeding, there are significant differences between the cellular and local exchange markets, and these

⁶ See, e.g., Comments of Allnet Communication Services, Inc. at 1. Wiltel's unlawful tying argument, at 5, completely ignores the fact that cellular customers have other ways to access the IXC of choice.

⁷ See, e.g., Comments of GTE at 5; Comments of Centel, Inc. at 7; Comments of SNET at 6 n.3. Although Advanced Telecommunications Corporation and LDDS Communications, at 1, state that many of their customers are "upset" because they cannot choose them as their cellular long distance carrier, neither explain why they have not advised their customers to reach them through an 800 number.

⁸ Comments of SNET at 6 n.3.

differences justify different regulatory policies. The Commission already endorsed the need for a different regulatory environment for cellular by establishing more flexible cellular rules and encouraging a competitive mobile services market.⁹ MCI's proposal runs counter to this regulatory approach. Imposing burdensome regulatory policies could actually undermine this competitive cellular market.

The record provides ample support that the cellular market is highly competitive and responsive to customer choice.¹⁰ A particular cellular carrier cannot control access to IXC facilities. The cellular duopoly system was established to encourage cellular competition. Cellular carriers compete on the basis of service, price and other factors.¹¹ Customers chose a cellular carrier because the service and options offered best fit that particular customer's service needs. This is significantly different from the local exchange market of the 1980s.

The various service options stimulate customer choice. For example, McCaw discusses several integrated services currently offered or to be offered,

⁹ For the last ten years, the Commission has consistently encouraged full and unrestricted resale policies. A cellular carrier providing long distance service is operating no differently than any other reseller. Wiltel, Inc.'s proposal that the Commission prohibit "cellular carriers from directly or indirectly reselling interexchange services" to eliminate their incentive to favor AT&T. Wiltel at 9. There is nothing on the record to suggest that cellular carriers favor AT&T or any other IXC. Wiltel's suggestion goes against the Commission's long-standing policy of encouraging unrestricted resale.

¹⁰ See, e.g., Comments of PMN, Inc. at 3-4, Comments of Centel, Inc. at 7.

¹¹ Not only is there currently intense competition in the cellular market, there is also significant competition between the IXCs for the cellular carriers' business which the Commission should consider. See Comments of SNET at 3, Comments of Unity Cellular Systems, Inc. at 4

such as integrated "cluster" plans that make wide-area service available at unitary rates and "bucket" plans which integrate local and long distance services.¹² Many cellular carriers, including GTE and the BOC-affiliated companies with MFJ waivers, provide wide area cellular service using their own or leased dedicated facilities which offer cellular customers toll-free calling.¹³ These and other options offered to customers highlight the competitive nature of cellular market and the competitive responses developed by the cellular carriers to attract and keep customers. However, many of these options would be eliminated or limited if cellular equal access were mandated.¹⁴

Competition in the cellular market is becoming even more intense with the increasing number of other wireless communications systems. Cellular competes with other mobile services, such as paging, SMRs and Personal Communications Services ("PCS"). SMR operators such as Fleet Call provide expanded SMR service in competition with cellular providers. Development and authorization of PCS was motivated, in part, by the Commission's desire for additional mobile services competition. As suggested by Pioneer Telephone Cooperative, "[c]omparison with these other segments of the mobile services

¹² Comments of McCaw at 8-9.

¹³ See Comments of Unity at 5.

¹⁴ Even the Comments of Ameritech, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group, and US West, Inc. ("Joint RBOCs") at 10-11 recognize the substantial benefits which are currently offered to non-BOC cellular customers, which would not be available under an equal access environment. The end user would certainly be the loser if these substantial benefits were eliminated because of the imposition of equal access obligations on cellular carriers.

markets is a more appropriate comparison than with the local exchange carrier (LEC) industry."¹⁵

In addition, the Commission must be concerned with the potentially significant negative competitive implications for the cellular market if cellular is burdened with additional regulatory requirements not similarly imposed upon other mobile services. While Sprint supports the MCI Petition because it believes that equal access implementation "has been a fundamental precondition to development of competition in the interexchange market,"¹⁶ it fails to consider the effect on competition in the cellular market. Burdensome regulatory tampering can only hinder the competitive cellular environment.

In addition to lack of the control of access facilities, the record also shows other differences between the cellular and local exchange markets. The cellular market is significantly smaller than the LEC market. PMN, citing the Department of Commerce figures, suggests that [t]he subscribership of cellular is approximately 5 percent that of local exchange service and cellular minutes of use is about 0.4 percent.¹⁷ Moreover, the percentage of cellular traffic which uses an IXC is also small, and significantly smaller than the LEC market.¹⁸ The need for additional equal access obligations based upon this usage level is extremely tenuous.

¹⁵ Pioneer Telephone Cooperative, Inc. at 3.

¹⁶ Comments of Sprint Communications Co. at 2.

¹⁷ Comments of PMN at 3, citing, U.S. Dep't. of Com., 1991 U.S. Indus. Outlook at 29-2.

¹⁸ CTIA states that "long distance calls over cellular comprise less than one per cent of all long distance traffic." Comments of CTIA at 14.

Finally, the record shows that the substantial costs and burdens to the cellular carriers to implement cellular equal access obligations. The Comments of the Cellular Telecommunications Industry Association ("CTIA") detail many of these costs including hardware, software and conversion costs. According to CTIA, "[t]he costs per subscriber for converting these systems will be considerably higher than landline equal access conversion costs per subscriber because the number of subscribers served by a typical cellular switch, particularly in the smaller MSA and RSA markets, is much smaller than the number of subscribers served by a landline switch."¹⁹ Other costs, though not as obvious, are also involved including subscriber inconvenience, reduced cellular serving areas and discontinued features. These costs must be balanced against the potential benefits. Such an analysis shows that these costs significantly outweigh the benefits of equal access.

The Commission should not impose burdensome regulation on all cellular carriers simply because cellular equal access is required for the RBOCs.

The Regional Bell Operating Companies ("RBOCs") are in a unique position with regard to cellular equal access. Because of obligations imposed upon them by the MFJ, their cellular affiliates already provide cellular equal access. The RBOCs have been trying very hard to obtain judicial relief from this cellular equal access obligation. Their filings to the Department of Justice and in the District Court show that these obligations are burdensome, expensive and unnecessary. Nonetheless, the RBOCs have not yet been successful in gaining judicial relief.

¹⁹ Comments of CTIA at 11.

While it is clear from their Comments that the RBOCs do not support cellular equal access, the RBOCs have supported MCI's Petition to the extent that it advocates applying cellular equal access obligations on all cellular carriers.²⁰ Since the RBOCs have not been able to get judicial relief, they support applying the same burdensome regulation on all cellular carriers, even though they readily acknowledge that such a requirement "needlessly increases the price wireless customers must pay for interexchange services."²¹

While the Commission can certainly consider the MFJ in its decisionmaking, it should not let the obligations imposed by the MFJ, an order voluntarily entered into by the RBOCs, dictate regulatory policy here. The RBOCs can continue to pursue relief in the appropriate forum. The Commission's regulatory policy should be resolved based solely on the public interest criteria, which are not necessarily the same as the interests of the RBOCs.

There are many unresolved issues
to be considered should the Commission
decide to impose rules for cellular equal access.

Notwithstanding the arguments presented above, should the Commission decide to propose rules for cellular equal access there are many issues still unresolved which must be considered: How will the presubscription process work? Will there be balloting and allocation required? Will the Commission require 10xxx unblocking? Who will pay the equal access conversion charges? How will a roamers' IXC be determined? Will the interexchange carriers pay

²⁰ See Comments of the Joint RBOCs at 16, Comments of Bell Atlantic at 1-2; Comments of Southwestern Bell at 14-15.

²¹ Comments of Bell Atlantic at 4.

access charges to the cellular carriers to compensate them for their services on the first and last mile? What are the technical issues? If the Commission decides to issue an NPRM, these issues should be set forth for comment.

CONCLUSION

For the foregoing reasons, since the public interest would not benefit from the additional regulatory burden of the proposed requirements, the Commission should decline to impose equal access obligations on cellular carriers.

Respectfully submitted,

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its cellular affiliates, GTE Mobilnet
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Certificate of Service

I, Gail L. Polivy, hereby certify that copies of the foregoing "Reply comments of GTE" have been mailed by first class United States mail, postage prepaid, on this 15th day of October, 1992 to all parties on the attached list.

A handwritten signature in cursive script, appearing to read "Gail Polivy", is written over a horizontal line.

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